

**Notice of Allowability**

Application No.

09/913,467

Examiner

Cherie M. Woodward

Applicant(s)

SEBALD, WALTER

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-Final Amendment filed 21 February 2007.
2. ☒ The allowed claim(s) is/are 1-23, 25-28 and 30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Marianne P. Allen*  
MARIANNE P. ALLEN  
PRIMARY EXAMINER

*Ac11647*

## EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in telephone interview with Applicant's representative, Joseph Liebeschuetz, on 19 March 2007. An Examiner's Amendment to claims 15, 25, 26, and 30, the abstract, and the specification was discussed and authorized.

### **In the Abstract:**

Add the letter "e" in the word "molecules" in the 5<sup>th</sup> line of the abstract, last word. The word appears to be missing letters when visualized in eDAN.

### **In the Specification:**

Page 11, fourth paragraph, line 18, delete the phrase "http://"

Page 30, the first paragraph appears to be missing letters in various words on lines 1 and 2.

Lines 1 and 2 of page 30 to read: "stages of differentiation of bone tissue. The color red indicates completely differentiated bones, turquoise stained areas in the process of ossification. In some parts, one can..."

### **In the Claims:**

Original claim 15 (renumbered as claim 13) is amended to read:  
A vector comprising the nucleic acid molecule as recited in claim 12, wherein said nucleic acid molecule further comprises at least part of a vector.

In original claim 25 (renumbered as claim 24), change "The," the first word in the claim, to "A..."

The claim to read: "A composition comprising..."

In original claim 26 (renumbered as claim 25), change "The," the first word in the claim, to "A..."

The claim to read: "A matrix characterized..."

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In original claim 30 (renumbered as claim 26), change "A" the first word in the claim, to "The..."

The claim to read: "The BMP or GDF polypeptide variant..."

It is noted that the claims have been renumbered beginning with the first independent claim followed by all claims that depend upon it, then moving to the next independent claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cherie M. Woodward whose telephone number is (571) 272-3329. The examiner can normally be reached on Monday - Thursday 9:00am-7:30pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on (571) 272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMW  
AU 1647

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*3/22/07*